App F IX 4

Previous References
ms 163-29 (1-7)
" 66-31 (6+55)
" 84-31 (11+21)

Later References
ms 274-33-3

1933.
(ms)

File No 259-31
Serial Nos 1+2.

RECEIVED

GENERAL AND REVENUE SECRETARIAT.

Serial Nos Two

Part B for December 1933

SUBJECT.

Road margin in Closepet + Srirangapatna municipals

To
The D C Bangalore Dt.
" D C Kolar Dt
No L 4044 dt 14-12-33

States that municipal Council can give effect to the Govt order as far as possible by a proper exercise of the powers under Sec. 102 of the Town Municipalities Act

Serial No

1 Letter no C2-P R. 287 | 31-32 dated 10/11/31 from the Deputy Commr Bangalore disht recommending that the proposal of the Bloreept mcl that the President may be empowered to relax the rule in deserving cases regarding the leaving of a road margin of 10 to 20 feet in respect of new and old buildings in Bloreept municipality

S 1 Go no L 9907-37 mcl 163-29-7 dated 16th June 1931, issuing instructions regarding the road margin to be left between the road and the houses etc springing up within mcl limits or newly opened roads, is put up. In para 2 thereof, it is stated that in special and individual cases where this margin may cause undue inconvenience to the occupants, the margin may be reduced to 10 feet in consultation and with the concurrence of the Executive Engineer of the Division.

Submitted for orders.

23/6/32 The short point that can be [illegible] for consideration is whether by prescribing a regular line of public street under Section 91 A of the old Regulation a municipal council has sufficient power, the provisions of the Section can not be in-

Contn Sheet

Road in Salem - Closed part town and land

Md File No 259 of 1931 | General and Revenue Secretariat

-I need as compensation was
have to be paid to the owners
for the land to be given up -
for being taken over to the
Street So for the section
of the old Road has not
been opened to any
Town Country If it is
decided that the direction
in the G.O should be
enforced, the section will
have to be made applicable
to all the owners
Such for orders -

1) 2/6/32

2) The Chief Engineer may be consulted unofficially

Secy 25/6

3) Yes

4) RB 29/6/32 Secy 29/6

5) Forwarded with compliments unofficially to the Chief Engineer in Mysore for favour of opinion

By order

Asstt for General Secy to Govt

G.O. No. 196 of 31 Dt 30-6-32

GENERAL SECRT
27 JUN 1
No.

504-
1

Serial No

GENERAL SECRETARY
2-Jy 19
No S 8

6) The difficulty which the Deputy Commissioner says is felt now in enforcing the rule will be felt in a greater measure in the future There can be no objection to the frontage of houses that are newly built being thrust 10 feet behind the existing line of houses It would mean less congestion to that extent, and the principle should be followed whenever the old houses are dismantled and are reconstructed or when the old houses collapse by themselves and are to be reconstructed All houses will ultimately come in a line The question of margin does not arise in cases where the existing house is quite in-tact and only ordinary repairs required to maintain it in a fair condition re executed

7) To give permission to build or repair the houses, in the first instance without any margin and take mutchalikas that they would surrender the margin free of cost ; later on, does not ~~recommend itself~~ seem to be of practical use to me Such mutchalikas will become dead letters

General Secy to Govt)

M Ry Narayana
1-7-32

1-7-32

1) Please put up Notes relating to Lease Patta Dt 10-3-1928 & 16-6-1931 also the one in which the expression newly opened roads were deleted recently

and file 163-29-31-7 leading to the Lease of 1931 and note 64-31-31 1/2 wherein the expression "newly opened roads" has been deleted put up

Dt 31-28 put up

1) Note—Co Sh

1) Please put up file 66-31-55 re a piece from the Nyapaccapeeel area

H 70-GBPM—60 000—13-8 31

Road margin - closer town municipal limits
L 5024 3.

Rl File No	259 of 1931	General and Revenue Secretariat

13)
Rl file 66-31 & 6 153 is put up V

23/8/32

14) A reference from the Collr Dy Comr has been rec'd today relating to a specific case in Sunnavapur in which the difficulty is going effect to the fact where a road margin is painted and the margin linked to that piece which may be walked up and dried early thereafter 17/8/32

15
Filed with the ref referred to (Rl 169 32) marked

23/8/32

The other case is also continued in this file, vide next sheet.
26/8

Road margin - in - Tri mvesapeer mlty

General and Revenue Secretariat

wl File No 119 of 1932 33

Serial No

-1 From

The Agent Kolar

Letter no A6-C-2369 dt 12 8 32

States that on the ground of a memo one Akkareddy Venkataramaiah, merchant of Tri mvesapeer has built his shop on the Bangalore Cuddapah Railway Feeder Road without leaving a road margin of at least 10 ft as requires by Govt no L 990-7 / ml 163-29-33-13-6 31 and that the enforcing of this rule is not possible unless the land is acquired and prays some grant for being advanced to the ml carried for acquisition of land for the purpose

(6) Kind reference is invited to the foregoing notes relating to below cited letter wherein the same question has been raised The Asst Exe & Dist Engineer thinks that the margin of 10 ft has to be enforced as this means less compensation to that extent As pointed out in the said notes section 91 A has power to be extended to this mlty also before enforcing the said rule regarding road margin and even after extension of this also then compensation has to be paid to the owner of the land for leaving open the margin. In view of the opinion given by the Agent Kolar the order re road margin has to be modified in respect of existing roads. The order can be enforced easily in the case of newly opened roads The Dist Engineer may perhaps be consulted again re O of approved

Vide Para Supra

Note—Contn Sheet

8/32

8

17. Difficulty in giving effect to the G.O 9/16 & 31-12 leaving of road margin of 20 feet in cases of buildings on existing roads in Municipal towns has been brought to notice by the Dy Com of Bangalore & Kolar in connection with cases that have arisen in Closepet and Srinivasapur towns respectively

18 The D.C Bangalore states that in view of the practical difficulties in strictly enforcing the 20 feet margin in respect of houses on the Blore-Hyder road passing through Closepet town, the Municipal Council have resolved that Govt might be requested to empower the Municipal President to relax the rule in deserving cases and that whenever licenses are granted in future for constructing new houses or repairing existing ones, Muchalikas would be obtained from the parties to the effect that they would surrender the margin of 20 feet without claiming compensation if Govt required the same.

19 The Chief Engineer, who was consulted in the matter, has stated that while there is no objection to the frontage of houses being thrust back by 10 feet, the proposal to give licenses to build without a margin in the first instance and take Muchalikas for surrender of the land without compensation later if required will not be of practical use.

20 In the Srinivasapur case brought to notice by the D C Kolar also, the party is stated to be agreeable to give up the 10 feet margin without

Serial No

Claiming compensation for the building & the land whenever the road-widening is taken up in future.

The DC (Lawson) refers to the ruling in 27 Mysore C.C.R. 174 under which a Municipal Council cannot arbitrarily direct the leaving of a road margin and states that the correct procedure would be to acquire the land from the owner, by paying compensation & that unless this is done the G.O. referred to cannot be given effect to.

2. In this connection reference is invited to the opinion of the Advocate, Law Secy, in para 12 to 23 of the notes in the file 66-31, which supports the view of the DC Kolar. It is also stated there that para 2 of the G.O of 1931 can be complied with by properly using the powers given to a Municipality under Secs 91A & 96 of the M. Regn. The question will however be one of funds and the DC Kolar requests that if the intention of Govt is that acqn proposals should be taken in such cases, necessary funds may be placed at his disposal for being advanced to the Municipal Council concerned.

3. Submitted for orders. The Chief Engr and the Law Secy may, if necessary, be again consulted with reference to the specific case referred by the Dy Com, Kolar.

GENERAL SECRETARIAT
26 AUG 1932
No.

(Chief Secy) 23-8-32

Advocate 26/8

5/9

No. Pro. 40 of 32-33 dated 5th Sept 1932

Forwarded with Compliments and Thanks to the Chief Engineer for favour of remarks.

By order
Asstt Secretary
for General Secretary

P.T.O.

NETL—Comm. Sheet (9.32)

WD 70—SBPM—60 000—13-8-3

No 136 of 8 of 32 Secretariat

file 2-9-32 submitted 1/9/32

4787/32

File No | of 193 | General and Revenue Secretariat

vs

Returned with compliments.

2. Though a Municipality cannot, as the Deputy-Commissioner has pointed out, arbitrarily direct an applicant to leave a margin of 10 feet, yet, it would be very desirable and necessary that whenever licenses are being granted by the Municipal authorities, the Executive Engineers are invariably consulted specially when the buildings proposed are likely to infringe the prescribed road margin.

3. In the case in question, however, as the area has been built over and as the party is stated to have executed a mutchalika also to surrender the area in question without compensation, should a widening of the road become necessary, the question may perhaps be dropped. Such mutchalikas are often lost. It is desirable to enter them in a register maintained for the purpose and included in the charge list of officials when transfers takes place. The mutchalikas should be kept under proper custody as contract bonds.

M. Rangaiya
Chief Engineer of Mysore.
2.3.33

No 136
3-3-1933

GENERAL SECRT.
3-[illegible]
No 5-3-9

For remarks, with reference to para 2 & 3

[illegible] Secy, Lawbeer
with Carpts)

186
Law

Vo

The G O of 16th June 1931 can be given effect to only by first prescribing the regular line of the public street

General and Revenue Secretariat | File No | of 193

Serial No

A municipality can prescribe such a line under sec 91 A only if it is a City Municipality or one duly notified by Govt in this behalf. It appears neither Chingleput nor the Srirangapur has been so notified. There is therefore no power in either of the Municipal Councils to require a private owner to leave vacant any portion of the land belonging to him. Such a restriction cannot be made under sec 96, and licence to build cannot for any reason be refused on the ground that the owner is not willing to leave the necessary road margin, by surrendering his rights in his own land

2) If the Municipalities in question are duly empowered under sec 91 A, they can then prescribe a regular line of the public street and no person can thereafter build within such a line without the permission of the Council. It is however significant that whenever a Municipal Council refuse permission to build on private land within the regular line, they have to pay compensation to the owner.

3) As regards the Kutchalikas given by owners to surrender the land without compensation it is doubtful how far they are enforceable in the first place, the agreement

NOTE—Contn Sheet

File No | of 193 | General and Revenu Secretariat

to survey does not amount to an agreement without consideration and consequently gives rise to no enforceable contract. Secondly it is clear that it cannot bind transferees for value. Again the Mutchalika is not usually registered and consequently cannot affect rights in immoveable property. There appears therefore, no use in taking such mutchalikas and much less in preserving them as valuable property.

Asst Secy R&S
to the Govt
1573

Subordinates

Genl Secy
1573

29 Why not empowerment under Sec 91 A
Please speak
20/3/33

30 There appears to be no objection to empower the Municipalities under Sec 91 A to prescribe a regular line of public street. This will no doubt enable them to enclose the intended road margin under Sec 13 & 1931 within the regular line so as to prohibit the construction of buildings within that line without the permission of the M C. But as pointed out in para 29 supra Compensation will have to be paid to the owner of a Municipal Council

GENERAL SECT. TAMIL
13
No.

Serial No

were to refuse permission to build In other words private lands within the margin will henceforth be acquired by the Govt by paying compensation

(Sd) Secy) APR 22/4

31

As G is please speak LTC 4/5

Discussed with Mr Secy

32 The new Municipal Regulations, which came into force from 1 8 33, have not introduced any change which could enable the enforcing of the Govt order of 16-6 1931 except in the manner stated above There is provision made in them for prohibiting the erection of buildings in certain areas in a Municipality without the permission of Govt, but that does not apply to cases of the kind in question Even if this provision is construed as enabling the prohibition of buildings within the margin prescribed in the said order, the compensation to be paid to the parties concerned cannot perhaps be obviated

(1) Section 116, Cal Mctn Regn
110, Tam Mctn Reg
80, Mad Mctn Regn

33 In these circumstances the only course possible is to declare the regular line of the public street on the roads in respect of which the order is to be enforced and refuse permission to build within that line, paying compensation to the parties concerned, or modify the G O of 16.6 31 so as to restrict its operation to the case of roads to be newly laid and of houses

NOTE—Contn Sheet

houses to be newly constructed, the Municipality taking care to see that the prescribed road margin is reserved when giving out sites for the construction of houses.

Submitted as directed

GENERAL SECTT. 23 OCT 1933 No

(Revenue Secy) 23/10

34

I agree that the G.O. 1931 cannot be made easily applicable in the case of existing houses which may be taken out altogether from the purview of that order. Even in the case of new houses to be built on sites already purchased, can they legally insist on the 50 feet or the 20 feet margin as the case may be? I am seeing to note

[illegible] 3/11

(Law Secy) 3/11

35

As already noted in para 27 above, it is legally possible for the Municipality to insist on 50' or 20' being left out for

Serial No

Purpose of Streets etc by prescribing a regular line of public street accordingly. But the Mlty must of course be prepared to pay compensation for the property when they refuse license to build

Gentry) DRP 3/11/33

160

GENERAL SECRETARY. 4 NOV. 1933 No

36 Mr Gay & Nan to please bring up 15/11.

37 A draft reply to the Dc Nolan & Blore is hereunto put up as instructed.

Gentry) DRP 24/4

4 Nov 1933 No

4 Nov 1933

3426 7/12

38 7/12 DRP 4/12/37

39. This has to issue from Reg Br

DRP 9/12

40 Issue draft 11/12 9/12

GENERAL SECRETARY 11 DEC 1933

TYPING SECTION 12 DEC 1933 GENL & REGISTRY SECTT

Contn. Sheet

206

File No	298	of 1931	General and Revenue Secretariat

The Accountant-General

Accountant, Bombay

Dated 14-12-33

State that receipt can be issued

to the party under cover as proposed

by a proper exercise of the powers under

Section 102 of the Customs Act.

2

B

Mr

Asst

Rl 259-31-1 5063

OFFICE OF THE DEPUTY COMMISSIONER
BANGALORE DISTRICT

Dated Bangalore the 10/11th June *193* 2

I ll f tur mm t
pl q t
N C2-PR 237/31-32
E

T l Add — DEPCOM
P tB N 34

FROM

K V Anantaraman, Esqr , B A ,
Deputy Commissioner
Bangalore District

17 JUN
B. B. & C. RAILWAY

To

R Ranga Rao, Esqr , B A , B L ,
General *Secretary*
to the Government of Mysore
Bangalore

GENERAL SECRETARY
16 JUNE 193
No Sm, /C

Upon 16/6
2 SS 16/6

Subject — Road margin in Closepet Town Municipal limits

I have the honour to state that the President, Municipal Council of Closepet, in his letter No 606/31-32 dated 13-5-32 represents certain practical difficulties regarding the strict enforcement of leaving a margin of 20 feet or more referred to in Government Order No L 9907-37/M1 163-29-7 dated 16-6-31 that this difficulty is being felt both in respect of old and New buildings in need of urgent repairs, on the Bangalore Mysore Road passing through Closepet town that a number of houses along this road are very old ones with low roofs and in a dilapidated condition that licences are being applied for repairing these houses, that the rule requiring a clear margin of at least 10 to 20 feet from the road works as a great hardship as the houses to be repaired will have to be put back to a distance of 10 to 20 feet, while the other buildings allowed to stand as they are, which would spoil the general appearance of the road owing to the buildings not coming up in a straight line, that the maximum dimensions of most of the sites being small they would not permit the leaving of a margin of 20 to 50 feet which means that the whole building has to be pulled down

The Municipal Council after a careful consideration of all aspects of the question at a special meeting convened for the purpose on 10-4-32 have resolved that Government might be requested to empower their Municipal President to relax the rule in deserving cases

The President requests that this proposal may be sanctioned and states that whenever licenses are granted in future for reconstruc-

constructing new houses or for r
tchalikas would invariably be obtained from t
the effect that they would surrender the margin o
from the road without claiming any compensation for
the event of Government requiring the same.

I beg to recommend the Municipal Council's request may be complied with.

I have the honour to be,
Sir,
Your most obedient servant

Deputy Commissioner,
Bangalore District.

V V.15-6-32

In all future correspondence please quote this
No A.6.C.2369/31-32
Encls Records.

OFFICE OF THE DEPUTY COMMISSIONER,
KOLAR DISTRICT

Dated, Kolar, the 12th August *193* 2.

GEN & REV SECTT. 706 13 AUG 1932 L. & C. BRANCH

FROM

A V RAMANATHAN, Esq, BA,
Deputy Commissioner,
Kolar District

To R. Ranga Rao, Esq., B.A., B.L.,
General Secretary to the Government of Mysore,
Bangalore.

GENERAL SECRETARY 13 AUG. 1932 No. C-88

SIR,

Road margin - main roads within Municipal limits.

I have the honor to forward herewith correspondence ending with Srinivasapur Municipal President's Memo No.11/32-33 ~~ad~~ and to state as follows -

Government in their Order No.L.9907/Ml.163-29-7 dated 13th June 1931 issuing instructions on the subject of road margins within Municipal limits have laid down that as regards existing roads, in special individual cases where the margin of 20 feet might cause undue inconvenience to the occupants the margin might be reduced to 10 feet in consultation and with the concurrence of the Executive Engineers of the Divisions. Even this margin of 10 feet is hard to maintain in the case of certain existing roads.

2. Bangalore-Cuddapah Railway Feeder Road runs within Srinivasapur Town limits and it is the main Bazar street of the town. One Akkasett Venkataramiah, Merchant of Srinivasapur, applied to the President of the Municipality on 14th March 1932 for a license to rebuild his shop alongside the road in 3rd furlong 27th mile. The Vice President having inspected the spot and drawn up a mahazar on 16th March 1932, recommended issue of a license. The President approved and the licens was delivered to the applicant on 17th March 1932, who commenced the work immediately. The Sub-Division Officer Public Works Department observed encroachment on the road-margin and issued a notice to the licensee, objecting to the construction of shop on the margin of the road and asking him to stop further work.

3. The ~~Sub-Division-Officer~~ Sub-Overseer wrote also to the President

President, Municipal Council on 23rd March 1932, enclosing a copy of Government Order for necessary action. No steps were taken by the Municipality and the licensee continued the work. The Executive Engineer wrote to me in his letter No.533 dated 21st May 1932 that action might be taken to dismantle the structure and have a margin of 20 feet as per -- Government order. A report was called for from the President on 6th June 1932. Meanwhile the Executive Engineer wrote again on 29th June 1932 that the Municipality having taken no steps in the matter, the work was going on. The President was asked on 4th July 1932 to stop further work and revoke license. His final report was received on 30th July 1932.

As per statement of Akkasetti Venkataramiah recorded by the President on 12th July 1932, a margin of 3 feet is left from the Municipal drain. In anticipation of getting a license, the applicant had collected all building materials and no sooner he got the license than he put the work on hand and completed it before receiving the notice from the Sub-Overseer on 23rd March 1932. The shop in question is 17½ feet East to West and if a margin of 10 feet is to be left, the remaining space of 7½ feet would be of no use to him and the dismantling of the present -- building would cause him heavy loss. He agrees to give up the 10 feet margin without claiming any compensation for the building and the site whenever the road-widening is undertaken in future. The President, reports that the provisions of Government order prescribing the margin would, if strictly enforced, operate as a great hardship to the owners of shops and houses, as several shops or houses cannot under the circumstances either be repaired or rebuilt and some merchants will have no shops at all, if the road margin is insisted upon while rebuilding their shops.

As per mahazar dated 12th July 1932, the 10 feet margin belongs to the applicant for license. It has been held in 27 Mys.C.C.R.221 that a Municipal Council cannot arbitrarily direct an applicant to leave a margin of 10 feet, but the correct procedure is to --

P.T.O.

to acquire that land from the owner, if the Municipal Council think it necessary to be left open.

This Municipal Council has little or no fund for improvement or road-widening and as the ~~land~~ law stands at present, unless acquisition is promptly done in such cases, the order of Government referred to above cannot be given effect to.

In the circumstances, I request instructions as to what exactly the Government want to be done in such cases. If it i the intention of Government that acquisition proceedings shou be taken promptly in such cases, I request that the necessary funds may kindly be placed at my disposal to advance it to th Municipal Council concerned.

I have the honor to be,
Sir,
Your most obedient servant,

12/8/32

Deputy Commissioner,
Kolar District.

L.S.R.2.

Appendix F G—1]

SUBJECT

Section ML
File No 259-31
Serial No 2

Diary No of letter replied to

No L 40444

To The Deputy Comr
Bangalore Dt
Kolar

General and Revenue Secretariat

( )

the *193*

Sir,

Date of issue 14-12-33

With reference to your letters No C2-PR 287/31 32 dated 11th June 1932 No A G C 2369/31-32 dt 12 8 1932 ~~dated 1932~~ regarding certain practical difficulties felt in the enforcement of the Govt order No. L 9907-37/ML about road margin 163-29-7 dated 16 6 931 in the closepet Municipality, I am directed to state ~~by a proper exercise of the powers under Sec 109 of the Town Municipalities Regulation~~ that before the Closepet Municipal Council can ~~be called upon to~~ enforce the ~~said~~ Govt order, it has to be ~~satisfied~~ vested with the

Srinivasan

List of enclosures

Copied by

Examined by

power to prescribe a regular line
of public street under sec 102
of the Town Municipalities Regulation
VIII of 1933. ~~The Municipal Council~~ It is by
~~can then be~~ a proper exercise
of ~~these~~ powers ~~give effect to the~~
~~Govt order~~ ¶ under this section
that the M'C'L has to give effect
to the Govt order above mentioned as far as possible

I have etc

~~Spencer~~

ISOY
24/4

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No 40444/Rev-259-31-2 Bangalore, Dated, 12th Dec, 1933.

From

The *General Secretary to the Government of His Highness the Maharaja of Mysore*

To

The Deputy Commissioner,

Kolar District.

Sir,

With reference to your letter No. A.6.C.2369/31-32 dated 12th August 32, regarding certain practical difficulties felt in the enforcement of the Government Orders No.L.9907-37 M1.163-29-7 dated 16th June 1931, about road margin in the Srinivasapur unicipality, I am directed to state that before the Srinivasapur Municipal Council can enforce the Government order, it has to be vested with the power to prescribed a regular line of public street under Section 102 of the Town Municipal Regulation VIII of 1933. It is by a proper exercise of the powers under this Section that the Municipal Council has to give effect to the Government Order above mentioned as far as possible.

I have the honour to be,
Sir,
Your most obedient servant,

Aswathappa

for General Secretary to Government.

K.M.R.2/12-12.